

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**OFFERED BY MR. ARCHER**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE; ETC.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Death Tax Elimination Act of 2000”.

4 (b) AMENDMENT OF 1986 CODE.—Except as other-  
5 wise expressly provided, whenever in this Act an amend-  
6 ment or repeal is expressed in terms of an amendment  
7 to, or repeal of, a section or other provision, the reference  
8 shall be considered to be made to a section or other provi-  
9 sion of the Internal Revenue Code of 1986.

**10 TITLE I—REPEAL OF ESTATE,**  
**11 GIFT, AND GENERATION-SKIP-**  
**12 PING TAXES; REPEAL OF**  
**13 STEP UP IN BASIS AT DEATH**

**14 SEC. 101. REPEAL OF ESTATE, GIFT, AND GENERATION-**  
**15 SKIPPING TAXES.**

16 (a) IN GENERAL.—Subtitle B is hereby repealed.

17 (b) EFFECTIVE DATE.—The repeal made by sub-  
18 section (a) shall apply to the estates of decedents dying,  
19 and gifts and generation-skipping transfers made, after  
20 December 31, 2009.

1 **SEC. 102. TERMINATION OF STEP UP IN BASIS AT DEATH.**

2 (a) TERMINATION OF APPLICATION OF SECTION  
3 1014.—Section 1014 (relating to basis of property ac-  
4 quired from a decedent) is amended by adding at the end  
5 the following:

6 “(f) TERMINATION.—In the case of a decedent dying  
7 after December 31, 2009, this section shall not apply to  
8 property for which basis is provided by section 1022.”.

9 (b) CONFORMING AMENDMENT.—Subsection (a) of  
10 section 1016 (relating to adjustments to basis) is amended  
11 by striking “and” at the end of paragraph (26), by strik-  
12 ing the period at the end of paragraph (27) and inserting  
13 “; and”, and by adding at the end the following:

14 “(28) to the extent provided in section 1022  
15 (relating to basis for certain property acquired from  
16 a decedent dying after December 31, 2009).”.

17 **SEC. 103. CARRYOVER BASIS AT DEATH.**

18 (a) GENERAL RULE.—Part II of subchapter O of  
19 chapter 1 (relating to basis rules of general application)  
20 is amended by inserting after section 1021 the following  
21 new section:

22 **“SEC. 1022. CARRYOVER BASIS FOR CERTAIN PROPERTY**  
23 **ACQUIRED FROM A DECEDENT DYING AFTER**  
24 **DECEMBER 31, 2009.**

25 “(a) CARRYOVER BASIS.—Except as otherwise pro-  
26 vided in this section, the basis of carryover basis property

1 in the hands of a person acquiring such property from a  
2 decedent shall be determined under section 1015.

3 “(b) CARRYOVER BASIS PROPERTY DEFINED.—

4 “(1) IN GENERAL.—For purposes of this sec-  
5 tion, the term ‘carryover basis property’ means any  
6 property—

7 “(A) which is acquired from or passed  
8 from a decedent who died after December 31,  
9 2009, and

10 “(B) which is not excluded pursuant to  
11 paragraph (2).

12 The property taken into account under subpara-  
13 graph (A) shall be determined under section 1014(b)  
14 without regard to subparagraph (A) of the last sen-  
15 tence of paragraph (9) thereof.

16 “(2) CERTAIN PROPERTY NOT CARRYOVER  
17 BASIS PROPERTY.—The term ‘carryover basis prop-  
18 erty’ does not include—

19 “(A) any item of gross income in respect  
20 of a decedent described in section 691,

21 “(B) property of the decedent to the extent  
22 that the aggregate adjusted fair market value  
23 of such property does not exceed \$1,300,000,  
24 and

1           “(C) property which was acquired from the  
2           decedent by the surviving spouse of the dece-  
3           dent (and which would be carryover basis prop-  
4           erty without regard to this subparagraph) but  
5           only if the value of such property would have  
6           been deductible from the value of the taxable  
7           estate of the decedent under section 2056, as in  
8           effect on the day before the date of the enact-  
9           ment of the Death Tax Elimination Act of  
10          2000.

11       For purposes of this subsection, the term ‘adjusted  
12       fair market value’ means, with respect to any prop-  
13       erty, fair market value reduced by any indebtedness  
14       secured by such property.

15           “(3) LIMITATION ON EXCEPTION FOR PROP-  
16       ERTY ACQUIRED BY SURVIVING SPOUSE.—The ad-  
17       justed fair market value of property which is not  
18       carryover basis property by reason of paragraph  
19       (2)(C) shall not exceed \$3,000,000.

20           “(4) ALLOCATION OF EXCEPTED AMOUNTS.—  
21       The executor shall allocate the limitations under  
22       paragraphs (2)(B) and (3).

23           “(5) INFLATION ADJUSTMENT OF EXCEPTED  
24       AMOUNTS.—In the case of decedents dying in a cal-  
25       endar year after 2010, the dollar amounts in para-

1       graphs (2)(B) and (3) shall each be increased by an  
2       amount equal to the product of—

3               “(A) such dollar amount, and

4               “(B) the cost-of-living adjustment deter-  
5       mined under section 1(f)(3) for such calendar  
6       year, determined by substituting ‘2009’ for  
7       ‘1992’ in subparagraph (B) thereof.

8       If any increase determined under the preceding sen-  
9       tence is not a multiple of \$10,000, such increase  
10      shall be rounded to the nearest multiple of \$10,000.

11      “(c) REGULATIONS.—The Secretary shall prescribe  
12      such regulations as may be necessary to carry out the pur-  
13      poses of this section.”.

14      (b) MISCELLANEOUS AMENDMENTS RELATED TO  
15      CARRYOVER BASIS.—

16              (1) CAPITAL GAIN TREATMENT FOR INHERITED  
17      ART WORK OR SIMILAR PROPERTY.—

18              (A) IN GENERAL.—Subparagraph (C) of  
19      section 1221(a)(3) (defining capital asset) is  
20      amended by inserting “(other than by reason of  
21      section 1022)” after “is determined”.

22              (B) COORDINATION WITH SECTION 170.—  
23      Paragraph (1) of section 170(e) (relating to  
24      certain contributions of ordinary income and  
25      capital gain property) is amended by adding at

1           the end the following: “For purposes of this  
2           paragraph, the determination of whether prop-  
3           erty is a capital asset shall be made without re-  
4           gard to the exception contained in section  
5           1221(a)(3)(C) for basis determined under sec-  
6           tion 1022.”.

7           (2) DEFINITION OF EXECUTOR.—Section  
8           7701(a) (relating to definitions) is amended by add-  
9           ing at the end the following:

10           “(47) EXECUTOR.—The term ‘executor’ means  
11           the executor or administrator of the decedent, or, if  
12           there is no executor or administrator appointed,  
13           qualified, and acting within the United States, then  
14           any person in actual or constructive possession of  
15           any property of the decedent.”.

16           (3) CLERICAL AMENDMENT.—The table of sec-  
17           tions for part II of subchapter O of chapter 1 is  
18           amended by adding at the end the following new  
19           item:

                  “Sec. 1022. Carryover basis for certain property acquired from a  
                  decedent dying after December 31, 2009.”.

20           (c) EFFECTIVE DATE.—The amendments made by  
21           this section shall apply to estates of decedents dying after  
22           December 31, 2009.

1 **TITLE II—REDUCTIONS OF ES-**  
2 **TATE AND GIFT TAX RATES**  
3 **PRIOR TO REPEAL**

4 **SEC. 201. ADDITIONAL REDUCTIONS OF ESTATE AND GIFT**  
5 **TAX RATES.**

6 (a) MAXIMUM RATE OF TAX REDUCED TO 50 PER-  
7 CENT.—

8 (1) IN GENERAL.—The table contained in sec-  
9 tion 2001(c)(1) is amended by striking the two high-  
10 est brackets and inserting the following:

“Over \$2,500,000 ..... \$1,025,800, plus 50% of the excess  
over \$2,500,000.”.

11 (2) PHASE-IN OF REDUCED RATE.—Subsection  
12 (c) of section 2001 is amended by adding at the end  
13 the following new paragraph:

14 “(3) PHASE-IN OF REDUCED RATE.—In the  
15 case of decedents dying, and gifts made, during  
16 2001, the last item in the table contained in para-  
17 graph (1) shall be applied by substituting ‘53%’ for  
18 ‘50%’.”.

19 (b) REPEAL OF PHASEOUT OF GRADUATED  
20 RATES.—Subsection (c) of section 2001 is amended by  
21 striking paragraph (2) and redesignating paragraph (3),  
22 as added by subsection (a), as paragraph (2).

1 (c) ADDITIONAL REDUCTIONS OF RATES OF TAX.—

2 Subsection (c) of section 2001, as so amended, is amended

3 by adding at the end the following new paragraph:

4 “(3) PHASEDOWN OF TAX.—In the case of es-  
5 tates of decedents dying, and gifts made, during any  
6 calendar year after 2002 and before 2010—

7 “(A) IN GENERAL.—Except as provided in  
8 subparagraph (C), the tentative tax under this  
9 subsection shall be determined by using a table  
10 prescribed by the Secretary (in lieu of using the  
11 table contained in paragraph (1)) which is the  
12 same as such table; except that—

13 “(i) each of the rates of tax shall be  
14 reduced by the number of percentage  
15 points determined under subparagraph  
16 (B), and

17 “(ii) the amounts setting forth the tax  
18 shall be adjusted to the extent necessary to  
19 reflect the adjustments under clause (i).

20 “(B) PERCENTAGE POINTS OF REDUC-  
21 TION.—

<b>“For calendar year:</b>	<b>The number of percentage points is:</b>
2003 .....	1.0
2004 .....	2.0
2005 .....	3.0
2006 .....	4.0
2007 .....	5.5
2008 .....	7.5
2009 .....	9.5.



1                   “(C) COORDINATION WITH INCOME TAX  
2                   RATES.—The reductions under subparagraph  
3                   (A)—

4                   “(i) shall not reduce any rate under  
5                   paragraph (1) below the lowest rate in sec-  
6                   tion 1(c), and

7                   “(ii) shall not reduce the highest rate  
8                   under paragraph (1) below the highest rate  
9                   in section 1(c).

10                  “(D) COORDINATION WITH CREDIT FOR  
11                  STATE DEATH TAXES.—Rules similar to the  
12                  rules of subparagraph (A) shall apply to the  
13                  table contained in section 2011(b) except that  
14                  the Secretary shall prescribe percentage point  
15                  reductions which maintain the proportionate re-  
16                  lationship (as in effect before any reduction  
17                  under this paragraph) between the credit under  
18                  section 2011 and the tax rates under subsection  
19                  (c).”.

20                  (d) EFFECTIVE DATES.—

21                  (1) SUBSECTIONS (a) AND (b).—The amend-  
22                  ments made by subsections (a) and (b) shall apply  
23                  to estates of decedents dying, and gifts made, after  
24                  December 31, 2000.

1           (2) SUBSECTION (c).—The amendment made by  
2       subsection (c) shall apply to estates of decedents  
3       dying, and gifts made, after December 31, 2002.

4       **TITLE III—UNIFIED CREDIT RE-**  
5       **PLACED WITH UNIFIED EX-**  
6       **EMPTION AMOUNT**

7       **SEC. 301. UNIFIED CREDIT AGAINST ESTATE AND GIFT**  
8               **TAXES REPLACED WITH UNIFIED EXEMPTION**  
9               **AMOUNT.**

10       (a) IN GENERAL.—

11           (1) ESTATE TAX.—Subsection (b) of section  
12       2001 (relating to computation of tax) is amended to  
13       read as follows:

14       “(b) COMPUTATION OF TAX.—

15           “(1) IN GENERAL.—The tax imposed by this  
16       section shall be the amount equal to the excess (if  
17       any) of—

18           “(A) the tentative tax determined under  
19       paragraph (2), over

20           “(B) the aggregate amount of tax which  
21       would have been payable under chapter 12 with  
22       respect to gifts made by the decedent after De-  
23       cember 31, 1976, if the provisions of subsection  
24       (c) (as in effect at the decedent’s death) had  
25       been applicable at the time of such gifts.

1           “(2) TENTATIVE TAX.—For purposes of para-  
 2           graph (1), the tentative tax determined under this  
 3           paragraph is a tax computed under subsection (c) on  
 4           the excess of—

5                   “(A) the sum of—

6                           “(i) the amount of the taxable estate,  
 7                           and

8                           “(ii) the amount of the adjusted tax-  
 9                           able gifts, over

10                   “(B) the exemption amount for the cal-  
 11                   endar year in which the decedent died.

12           “(3) EXEMPTION AMOUNT.—For purposes of  
 13           paragraph (2), the term ‘exemption amount’ means  
 14           the amount determined in accordance with the fol-  
 15           lowing table:

<b>“In the case of calendar year:</b>	<b>The exemption amount is:</b>
2001 .....	\$675,000
2002 and 2003 .....	\$700,000
2004 .....	\$850,000
2005 .....	\$950,000
2006 or thereafter .....	\$1,000,000.

16           “(4) ADJUSTED TAXABLE GIFTS.—For pur-  
 17           poses of paragraph (2), the term ‘adjusted taxable  
 18           gifts’ means the total amount of the taxable gifts  
 19           (within the meaning of section 2503) made by the  
 20           decedent after December 31, 1976, other than gifts  
 21           which are includible in the gross estate of the dece-  
 22           dent.”

1           (2) GIFT TAX.—Subsection (a) of section 2502  
2           (relating to computation of tax) is amended to read  
3           as follows:

4           “(a) COMPUTATION OF TAX.—

5                 “(1) IN GENERAL.—The tax imposed by section  
6           2501 for each calendar year shall be the amount  
7           equal to the excess (if any) of—

8                 “(A) the tentative tax determined under  
9           paragraph (2), over

10                “(B) the tax paid under this section for all  
11           prior calendar periods.

12               “(2) TENTATIVE TAX.—For purposes of para-  
13           graph (1), the tentative tax determined under this  
14           paragraph for a calendar year is a tax computed  
15           under section 2001(c) on the excess of—

16                “(A) the aggregate sum of the taxable gifts  
17           for such calendar year and for each of the pre-  
18           ceding calendar periods, over

19                “(B) the exemption amount under section  
20           2001(b)(3) for such calendar year.”

21           (b) REPEAL OF UNIFIED CREDITS.—

22                (1) Section 2010 (relating to unified credit  
23           against estate tax) is hereby repealed.

24                (2) Section 2505 (relating to unified credit  
25           against gift tax) is hereby repealed.

1 (c) CONFORMING AMENDMENTS.—

2 (1)(A) Subsection (b) of section 2011 is  
3 amended—

4 (i) by striking “adjusted” in the table, and

5 (ii) by striking the last sentence.

6 (B) Subsection (f) of section 2011 is amended  
7 by striking “, reduced by the amount of the unified  
8 credit provided by section 2010”.

9 (2) Subsection (a) of section 2012 is amended  
10 by striking “and the unified credit provided by sec-  
11 tion 2010”.

12 (3) Subparagraph (A) of section 2013(c)(1) is  
13 amended by striking “2010,”.

14 (4) Paragraph (2) of section 2014(b) is amend-  
15 ed by striking “2010,”.

16 (5) Clause (ii) of section 2056A(b)(12)(C) is  
17 amended to read as follows:

18 “(ii) to treat any reduction in the tax  
19 imposed by paragraph (1)(A) by reason of  
20 the credit allowable under section 2010 (as  
21 in effect on the day before the date of the  
22 enactment of the Death Tax Elimination  
23 Act of 2000) or the exemption amount al-  
24 lowable under section 2001(b) with respect  
25 to the decedent as a credit under section

1           2505 (as so in effect) or exemption under  
2           section 2521 (as the case may be) allow-  
3           able to such surviving spouse for purposes  
4           of determining the amount of the exemp-  
5           tion allowable under section 2521 with re-  
6           spect to taxable gifts made by the sur-  
7           viving spouse during the year in which the  
8           spouse becomes a citizen or any subse-  
9           quent year.”.

10           (6) Subsection (a) of section 2057 is amended  
11           by striking paragraphs (2) and (3) and inserting the  
12           following new paragraph:

13           “(2) MAXIMUM DEDUCTION.—The deduction al-  
14           lowed by this section shall not exceed the excess of  
15           \$1,300,000 over the exemption amount (as defined  
16           in section 2001(b)(3)).”

17           (7)(A) Subsection (b) of section 2101 is amend-  
18           ed to read as follows:

19           “(b) COMPUTATION OF TAX.—

20           “(1) IN GENERAL.—The tax imposed by this  
21           section shall be the amount equal to the excess (if  
22           any) of—

23           “(A) the tentative tax determined under  
24           paragraph (2), over

1           “(B) a tentative tax computed under sec-  
2           tion 2001(c) on the amount of the adjusted tax-  
3           able gifts.

4           “(2) TENTATIVE TAX.—For purposes of para-  
5           graph (1), the tentative tax determined under this  
6           paragraph is a tax computed under section 2001(c)  
7           on the excess of—

8           “(A) the sum of—

9                   “(i) the amount of the taxable estate,  
10                  and

11                   “(ii) the amount of the adjusted tax-  
12                  able gifts, over

13           “(B) the exemption amount for the cal-  
14           endar year in which the decedent died.

15           “(3) EXEMPTION AMOUNT.—

16           “(A) IN GENERAL.—The term ‘exemption  
17           amount’ means \$60,000.

18           “(B) RESIDENTS OF POSSESSIONS OF THE  
19           UNITED STATES.—In the case of a decedent  
20           who is considered to be a nonresident not a cit-  
21           izen of the United States under section 2209,  
22           the exemption amount under this paragraph  
23           shall be the greater of—

24                   “(i) \$60,000, or

1           “(ii) that proportion of \$175,000  
2           which the value of that part of the dece-  
3           dent’s gross estate which at the time of his  
4           death is situated in the United States  
5           bears to the value of his entire gross estate  
6           wherever situated.

7           “(C) SPECIAL RULES.—

8           “(i) COORDINATION WITH TREA-  
9           TIES.—To the extent required under any  
10          treaty obligation of the United States, the  
11          exemption amount allowed under this para-  
12          graph shall be equal to the amount which  
13          bears the same ratio to the exemption  
14          amount under section 2001(b)(3) (for the  
15          calendar year in which the decedent died)  
16          as the value of the part of the decedent’s  
17          gross estate which at the time of his death  
18          is situated in the United States bears to  
19          the value of his entire gross estate wher-  
20          ever situated. For purposes of the pre-  
21          ceding sentence, property shall not be  
22          treated as situated in the United States if  
23          such property is exempt from the tax im-  
24          posed by this subchapter under any treaty  
25          obligation of the United States.



1                   “(ii) COORDINATION WITH GIFT TAX  
2                   EXEMPTION AND UNIFIED CREDIT.—If an  
3                   exemption has been allowed under section  
4                   2521 (or a credit has been allowed under  
5                   section 2505 as in effect on the day before  
6                   the date of the enactment of the Death  
7                   Tax Elimination Act of 2000) with respect  
8                   to any gift made by the decedent, each dol-  
9                   lar amount contained in subparagraph (A)  
10                  or (B) or the exemption amount applicable  
11                  under clause (i) of this subparagraph  
12                  (whichever applies) shall be reduced by the  
13                  exemption so allowed under 2521 (or, in  
14                  the case of such a credit, by the amount of  
15                  the gift for which the credit was so al-  
16                  lowed).”.

17               (8) Section 2102 is amended by striking sub-  
18               section (c).

19               (9)(A) Subsection (a) of section 2107 is amend-  
20               ed by adding at the end the following new para-  
21               graph:

22               “(3) LIMITATION ON EXEMPTION AMOUNT.—  
23               Subparagraphs (B) and (C) of section 2101(b)(3)  
24               shall not apply in applying section 2101 for purposes  
25               of this section.”.

1           (B) Subsection (c) of section 2107 is  
2 amended—

3                   (i) by striking paragraph (1) and by  
4 redesignating paragraphs (2) and (3) as  
5 paragraphs (1) and (2), respectively, and

6                   (ii) by striking the second sentence of  
7 paragraph (2) (as so redesignated).

8           (10) Paragraph (1) of section 6018(a) is  
9 amended by striking “the applicable exclusion  
10 amount in effect under section 2010(c)” and insert-  
11 ing “the exemption amount under section  
12 2001(b)(3)”.

13           (11) Subparagraph (A) of section 6601(j)(2) is  
14 amended to read as follows:

15                   “(A) the amount of the tentative tax which  
16 would be determined under the rate schedule  
17 set forth in section 2001(c) if the amount with  
18 respect to which such tentative tax is to be  
19 computed were \$1,000,000, or”.

20           (12) The table of sections for part II of sub-  
21 chapter A of chapter 11 is amended by striking the  
22 item relating to section 2010.

23           (20) The table of sections for subchapter A of  
24 chapter 12 is amended by striking the item relating  
25 to section 2505.

1 (13) The table of sections for subchapter C of  
2 chapter 12 is amended by inserting before the item  
3 relating to section 2522 the following new item:

“Sec. 2521. Exemption.”.

4 (d) EFFECTIVE DATE.—The amendments made by  
5 this section—

6 (1) insofar as they relate to the tax imposed by  
7 chapter 11 of the Internal Revenue Code of 1986,  
8 shall apply to estates of decedents dying after De-  
9 cember 31, 2000, and

10 (2) insofar as they relate to the tax imposed by  
11 chapter 12 of such Code, shall apply to gifts made  
12 after December 31, 2000.

13 **TITLE IV—MODIFICATIONS OF**  
14 **GENERATION-SKIPPING**  
15 **TRANSFER TAX**

16 **SEC. 401. DEEMED ALLOCATION OF GST EXEMPTION TO**  
17 **LIFETIME TRANSFERS TO TRUSTS; RETRO-**  
18 **ACTIVE ALLOCATIONS.**

19 (a) IN GENERAL.—Section 2632 (relating to special  
20 rules for allocation of GST exemption) is amended by re-  
21 designating subsection (c) as subsection (e) and by insert-  
22 ing after subsection (b) the following new subsections:

23 “(c) DEEMED ALLOCATION TO CERTAIN LIFETIME  
24 TRANSFERS TO GST TRUSTS.—

1           “(1) IN GENERAL.—If any individual makes an  
2           indirect skip during such individual’s lifetime, any  
3           unused portion of such individual’s GST exemption  
4           shall be allocated to the property transferred to the  
5           extent necessary to make the inclusion ratio for such  
6           property zero. If the amount of the indirect skip ex-  
7           ceeds such unused portion, the entire unused portion  
8           shall be allocated to the property transferred.

9           “(2) UNUSED PORTION.—For purposes of para-  
10          graph (1), the unused portion of an individual’s  
11          GST exemption is that portion of such exemption  
12          which has not previously been—

13                 “(A) allocated by such individual,

14                 “(B) treated as allocated under subsection  
15                 (b) with respect to a direct skip occurring dur-  
16                 ing or before the calendar year in which the in-  
17                 direct skip is made, or

18                 “(C) treated as allocated under paragraph  
19                 (1) with respect to a prior indirect skip.

20          “(3) DEFINITIONS.—

21                 “(A) INDIRECT SKIP.—For purposes of  
22                 this subsection, the term ‘indirect skip’ means  
23                 any transfer of property (other than a direct  
24                 skip) subject to the tax imposed by chapter 12  
25                 made to a GST trust.

1                   “(B) GST TRUST.—The term ‘GST trust’  
2                   means a trust that could have a generation-  
3                   skipping transfer with respect to the transferor  
4                   unless—

5 “(i) the trust instrument provides that  
6 more than 25 percent of the trust corpus  
7 must be distributed to or may be with-  
8 drawn by 1 or more individuals who are  
9 non-skip persons—

10 “(I) before the date that the indi-  
11 vidual attains age 46,

12 “(II) on or before one or more  
13 dates specified in the trust instrument  
14 that will occur before the date that  
15 such individual attains age 46, or

“(III) upon the occurrence of an event that, in accordance with regulations prescribed by the Secretary, may reasonably be expected to occur before the date that such individual attains age 46;

“(ii) the trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by one or more individuals who are

1 non-skip persons and who are living on the  
2 date of death of another person identified  
3 in the instrument (by name or by class)  
4 who is more than 10 years older than such  
5 individuals;

6 “(iii) the trust instrument provides  
7 that, if one or more individuals who are  
8 non-skip persons die on or before a date or  
9 event described in clause (i) or (ii), more  
10 than 25 percent of the trust corpus either  
11 must be distributed to the estate or estates  
12 of one or more of such individuals or is  
13 subject to a general power of appointment  
14 exercisable by one or more of such individ-  
15 uals;

16 “(iv) the trust is a trust any portion  
17 of which would be included in the gross es-  
18 tate of a non-skip person (other than the  
19 transferor) if such person died immediately  
20 after the transfer;

21 “(v) the trust is a charitable lead an-  
22 nuity trust (within the meaning of section  
23 2642(e)(3)(A)) or a charitable remainder  
24 annuity trust or a charitable remainder

1                   unitrust (within the meaning of section  
2                   664(d)); or

3                   “(vi) the trust is a trust with respect  
4                   to which a deduction was allowed under  
5                   section 2522 for the amount of an interest  
6                   in the form of the right to receive annual  
7                   payments of a fixed percentage of the net  
8                   fair market value of the trust property (de-  
9                   termined yearly) and which is required to  
10                  pay principal to a non-skip person if such  
11                  person is alive when the yearly payments  
12                  for which the deduction was allowed termi-  
13                  nate.

14                 For purposes of this subparagraph, the value of  
15                 transferred property shall not be considered to  
16                 be includible in the gross estate of a non-skip  
17                 person or subject to a right of withdrawal by  
18                 reason of such person holding a right to with-  
19                 draw so much of such property as does not ex-  
20                 ceed the amount referred to in section 2503(b)  
21                 with respect to any transferor, and it shall be  
22                 assumed that powers of appointment held by  
23                 non-skip persons will not be exercised.

24                 “(4) AUTOMATIC ALLOCATIONS TO CERTAIN  
25                 GST TRUSTS.—For purposes of this subsection, an

1 indirect skip to which section 2642(f) applies shall  
2 be deemed to have been made only at the close of  
3 the estate tax inclusion period. The fair market  
4 value of such transfer shall be the fair market value  
5 of the trust property at the close of the estate tax  
6 inclusion period.

7 “(5) APPLICABILITY AND EFFECT.—

8 “(A) IN GENERAL.—An individual—

9 “(i) may elect to have this subsection  
10 not apply to—

11 “(I) an indirect skip, or

12 “(II) any or all transfers made  
13 by such individual to a particular  
14 trust, and

15 “(ii) may elect to treat any trust as a  
16 GST trust for purposes of this subsection  
17 with respect to any or all transfers made  
18 by such individual to such trust.

19 “(B) ELECTIONS.—

20 “(i) ELECTIONS WITH RESPECT TO  
21 INDIRECT SKIPS.—An election under sub-  
22 paragraph (A)(i)(I) shall be deemed to be  
23 timely if filed on a timely filed gift tax re-  
24 turn for the calendar year in which the  
25 transfer was made or deemed to have been



1           made pursuant to paragraph (4) or on  
2           such later date or dates as may be pre-  
3           scribed by the Secretary.

4           “(ii) OTHER ELECTIONS.—An election  
5           under clause (i)(II) or (ii) of subparagraph  
6           (A) may be made on a timely filed gift tax  
7           return for the calendar year for which the  
8           election is to become effective.

9           “(d) RETROACTIVE ALLOCATIONS.—

10          “(1) IN GENERAL.—If—

11           “(A) a non-skip person has an interest or  
12           a future interest in a trust to which any trans-  
13           fer has been made,

14           “(B) such person—

15           “(i) is a lineal descendant of a grand-  
16           parent of the transferor or of a grand-  
17           parent of the transferor’s spouse or former  
18           spouse, and

19           “(ii) is assigned to a generation below  
20           the generation assignment of the trans-  
21           feror, and

22           “(C) such person predeceases the trans-  
23           feror,

24           then the transferor may make an allocation of any  
25           of such transferor’s unused GST exemption to any

1 previous transfer or transfers to the trust on a  
2 chronological basis.

3 “(2) SPECIAL RULES.—If the allocation under  
4 paragraph (1) by the transferor is made on a gift  
5 tax return filed on or before the date prescribed by  
6 section 6075(b) for gifts made within the calendar  
7 year within which the non-skip person’s death  
8 occurred—

9 “(A) the value of such transfer or trans-  
10 fers for purposes of section 2642(a) shall be de-  
11 termined as if such allocation had been made  
12 on a timely filed gift tax return for each cal-  
13 endar year within which each transfer was  
14 made,

15 “(B) such allocation shall be effective im-  
16 mediately before such death, and

17 “(C) the amount of the transferor’s un-  
18 used GST exemption available to be allocated  
19 shall be determined immediately before such  
20 death.

21 “(3) FUTURE INTEREST.—For purposes of this  
22 subsection, a person has a future interest in a trust  
23 if the trust may permit income or corpus to be paid  
24 to such person on a date or dates in the future.”.

1 (b) CONFORMING AMENDMENT.—Paragraph (2) of  
2 section 2632(b) is amended by striking “with respect to  
3 a direct skip” and inserting “or subsection (c)(1)”.

4 (c) EFFECTIVE DATES.—

5 (1) DEEMED ALLOCATION.—Section 2632(c) of  
6 the Internal Revenue Code of 1986 (as added by  
7 subsection (a)), and the amendment made by sub-  
8 section (b), shall apply to transfers subject to chap-  
9 ter 11 or 12 made after December 31, 1999, and to  
10 estate tax inclusion periods ending after December  
11 31, 1999.

12 (2) RETROACTIVE ALLOCATIONS.—Section  
13 2632(d) of the Internal Revenue Code of 1986 (as  
14 added by subsection (a)) shall apply to deaths of  
15 non-skip persons occurring after December 31,  
16 1999.

17 **SEC. 402. SEVERING OF TRUSTS.**

18 (a) IN GENERAL.—Subsection (a) of section 2642  
19 (relating to inclusion ratio) is amended by adding at the  
20 end the following new paragraph:

21 “(3) SEVERING OF TRUSTS.—

22 “(A) IN GENERAL.—If a trust is severed in  
23 a qualified severance, the trusts resulting from  
24 such severance shall be treated as separate  
25 trusts thereafter for purposes of this chapter.

1                   “(B) QUALIFIED SEVERANCE.—For pur-  
2 poses of subparagraph (A)—

3                   “(i) IN GENERAL.—The term ‘quali-  
4 fied severance’ means the division of a sin-  
5 gle trust and the creation (by any means  
6 available under the governing instrument  
7 or under local law) of two or more trusts  
8 if—

9                   “(I) the single trust was divided  
10 on a fractional basis, and

11                   “(II) the terms of the new trusts,  
12 in the aggregate, provide for the same  
13 succession of interests of beneficiaries  
14 as are provided in the original trust.

15                   “(ii) TRUSTS WITH INCLUSION RATIO  
16 GREATER THAN ZERO.—If a trust has an  
17 inclusion ratio of greater than zero and  
18 less than 1, a severance is a qualified sev-  
19 erance only if the single trust is divided  
20 into two trusts, one of which receives a  
21 fractional share of the total value of all  
22 trust assets equal to the applicable fraction  
23 of the single trust immediately before the  
24 severance. In such case, the trust receiving  
25 such fractional share shall have an inclu-

1                   sion ratio of zero and the other trust shall  
2                   have an inclusion ratio of 1.

3                   “(iii)     REGULATIONS.—The     term  
4                   ‘qualified severance’ includes any other  
5                   severance permitted under regulations pre-  
6                   scribed by the Secretary.

7                   “(C)     TIMING     AND     MANNER     OF  
8                   SEVERANCES.—A severance pursuant to this  
9                   paragraph may be made at any time. The Sec-  
10                  retary shall prescribe by forms or regulations  
11                  the manner in which the qualified severance  
12                  shall be reported to the Secretary.”.

13                  (b) EFFECTIVE DATE.—The amendment made by  
14                  this section shall apply to severances after December 31,  
15                  1999.

16     **SEC. 403. MODIFICATION OF CERTAIN VALUATION RULES.**

17                  (a) GIFTS FOR WHICH GIFT TAX RETURN FILED OR  
18                  DEEMED ALLOCATION MADE.—Paragraph (1) of section  
19                  2642(b) (relating to valuation rules, etc.) is amended to  
20                  read as follows:

21                  “(1) GIFTS FOR WHICH GIFT TAX RETURN  
22                  FILED OR DEEMED ALLOCATION MADE.—If the allo-  
23                  cation of the GST exemption to any transfers of  
24                  property is made on a gift tax return filed on or be-  
25                  fore the date prescribed by section 6075(b) for such

1 transfer or is deemed to be made under section 2632  
2 (b)(1) or (c)(1)—

3 “(A) the value of such property for pur-  
4 poses of subsection (a) shall be its value as fi-  
5 nally determined for purposes of chapter 12  
6 (within the meaning of section 2001(f)(2)), or,  
7 in the case of an allocation deemed to have been  
8 made at the close of an estate tax inclusion pe-  
9 riod, its value at the time of the close of the es-  
10 tate tax inclusion period, and

11 “(B) such allocation shall be effective on  
12 and after the date of such transfer, or, in the  
13 case of an allocation deemed to have been made  
14 at the close of an estate tax inclusion period, on  
15 and after the close of such estate tax inclusion  
16 period.”.

17 (b) TRANSFERS AT DEATH.—Subparagraph (A) of  
18 section 2642(b)(2) is amended to read as follows:

19 “(A) TRANSFERS AT DEATH.—If property  
20 is transferred as a result of the death of the  
21 transferor, the value of such property for pur-  
22 poses of subsection (a) shall be its value as fi-  
23 nally determined for purposes of chapter 11; ex-  
24 cept that, if the requirements prescribed by the  
25 Secretary respecting allocation of post-death

1 changes in value are not met, the value of such  
2 property shall be determined as of the time of  
3 the distribution concerned.”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to transfers subject to chapter 11  
6 or 12 of the Internal Revenue Code of 1986 made after  
7 December 31, 1999.

8 **SEC. 404. RELIEF PROVISIONS.**

9 (a) IN GENERAL.—Section 2642 is amended by add-  
10 ing at the end the following new subsection:

11 “(g) RELIEF PROVISIONS.—

12 “(1) RELIEF FROM LATE ELECTIONS.—

13 “(A) IN GENERAL.—The Secretary shall by  
14 regulation prescribe such circumstances and  
15 procedures under which extensions of time will  
16 be granted to make—

17 “(i) an allocation of GST exemption  
18 described in paragraph (1) or (2) of sub-  
19 section (b), and

20 “(ii) an election under subsection  
21 (b)(3) or (c)(5) of section 2632.

22 Such regulations shall include procedures for  
23 requesting comparable relief with respect to  
24 transfers made before the date of the enactment  
25 of this paragraph.

1                   “(B) BASIS FOR DETERMINATIONS.—In  
2                   determining whether to grant relief under this  
3                   paragraph, the Secretary shall take into ac-  
4                   count all relevant circumstances, including evi-  
5                   dence of intent contained in the trust instru-  
6                   ment or instrument of transfer and such other  
7                   factors as the Secretary deems relevant. For  
8                   purposes of determining whether to grant relief  
9                   under this paragraph, the time for making the  
10                  allocation (or election) shall be treated as if not  
11                  expressly prescribed by statute.

12               “(2) SUBSTANTIAL COMPLIANCE.—An alloca-  
13               tion of GST exemption under section 2632 that  
14               demonstrates an intent to have the lowest possible  
15               inclusion ratio with respect to a transfer or a trust  
16               shall be deemed to be an allocation of so much of  
17               the transferor’s unused GST exemption as produces  
18               the lowest possible inclusion ratio. In determining  
19               whether there has been substantial compliance, all  
20               relevant circumstances shall be taken into account,  
21               including evidence of intent contained in the trust  
22               instrument or instrument of transfer and such other  
23               factors as the Secretary deems relevant.”.

24               (b) EFFECTIVE DATES.—



1           (1) RELIEF FROM LATE ELECTIONS.—Section  
2           2642(g)(1) of the Internal Revenue Code of 1986  
3           (as added by subsection (a)) shall apply to requests  
4           pending on, or filed after, December 31, 1999.

5           (2) SUBSTANTIAL COMPLIANCE.—Section  
6           2642(g)(2) of such Code (as so added) shall apply  
7           to transfers subject to chapter 11 or 12 of the Inter-  
8           nal Revenue Code of 1986 made after December 31,  
9           1999. No implication is intended with respect to the  
10          availability of relief from late elections or the appli-  
11          cation of a rule of substantial compliance on or be-  
12          fore such date.

## 13           **TITLE V—CONSERVATION** 14           **EASEMENTS**

### 15   **SEC. 501. EXPANSION OF ESTATE TAX RULE FOR CON-** 16           **SERVATION EASEMENTS.**

17          (a) WHERE LAND IS LOCATED.—

18           (1) IN GENERAL.—Clause (i) of section  
19           2031(c)(8)(A) (defining land subject to a conserva-  
20           tion easement) is amended—

21                   (A) by striking “25 miles” both places it  
22                   appears and inserting “50 miles”, and

23                   (B) striking “10 miles” and inserting “25  
24                   miles”.

1           (2) EFFECTIVE DATE.—The amendments made  
2       by this subsection shall apply to estates of decedents  
3       dying after December 31, 1999.

4       (b) CLARIFICATION OF DATE FOR DETERMINING  
5       VALUE OF LAND AND EASEMENT.—

6           (1) IN GENERAL.—Section 2031(c)(2) (defining  
7       applicable percentage) is amended by adding at the  
8       end the following new sentence: “The values taken  
9       into account under the preceding sentence shall be  
10      such values as of the date of the contribution re-  
11      ferred to in paragraph (8)(B).”.

12          (2) EFFECTIVE DATE.—The amendment made  
13      by this subsection shall apply to estates of decedents  
14      dying after December 31, 1997.